

THE NEWS OF NORFOLK ON PAGES TWO, THREE, AND FIVE.

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COURT DECISIONS.

Notes of Cases Recently Decided,
Which are of Interest to
Our People.

DIGESTED BY W. B. MARTIN.
(Exclusively for Virginian-Pilot.)

TROXLER V. SOUTHERN RY. CO.
Supreme Court of North Carolina.
March 21, 1899.

FAILURE OF A RAILROAD COMPANY TO USE AUTOMATIC COUPLERS IN GENERAL USE, ON ITS FREIGHT CARS, IS NEGLIGENCE PER SE.

The plaintiff was injured in attempting to couple cars of the defendant on which there were no automatic couplers, but in lieu thereof skeleton drawheads, of unequal height. The court below held that the absence of automatic couplers, in general use, was negligence per se, and refused to submit an issue whether the injury was not caused by the negligence of a fellow servant, and refused to instruct the jury, as prayed, that the plaintiff was guilty of contributory negligence if he could, by proper care, have coupled the cars by hand without accident.

From a judgment for plaintiff defendant appealed.

The court says:
The duty to furnish proper and safe appliances is that of the common carrier, and in any case where the negligence cannot be attributed to the negligence of a fellow servant, it has been heretofore held that failure of a railroad company to equip its freight cars with modern self-coupling devices, is negligence per se, continuing up to the time of an injury sustained by an employee in coupling cars by hand, and renders the company liable, whether such employee was negligent in the manner of making the coupling or not.

The same ruling had been previously made as to the duty of furnishing automatic car couplers on passenger trains. Where the negligence of the defendant is a continuing negligence (as the failure to furnish safe appliances, in general use, when the use of such appliances had been prevented the possibility of the injury), there can be no contributory negligence which will discharge the master's liability. This has been repeatedly and uniformly held.

The failure to provide the necessary appliances is the causa causans. The defendant, however, frankly asks us to reconsider and overrule Greenlee's Case. That case was the expression of no new doctrine, but the affirmation of one as old as the law, and founded on the soundest principles of justice and reason.

That when safer appliances have been invented, tested, and have come into general use, it is negligence per se for the master to expose his servant to the hazard of life and limb from antiquated and defective appliances which have been generally discarded by the intelligence and humanity of other employers. This must be so, if masters owe any duties to their employees, and unless economy of expenditure on the part of the railroad management is to be deemed superior to the conservation of the lives and limbs of those employed in their operation.

As of the 9,000 employees reported in this State, 4,000 (according to the usual ratio) were employees engaged in the actual operation of the trains. It follows that in this State 1 such employee in every 6 1/2 was in that year injured or killed. In view of such mortality, rivaling that of the bloodiest wars, this court cannot reverse its declaration heretofore, which is sustained by every sentiment of justice and humanity, that where a life and limb saving appliance, like automatic car couplers, has come into general use, and its partial adoption has in four years, notwithstanding the increase in railroad mileage and employees, decreased the injuries and deaths from coupling cars one-half, the failure to adopt and use it is negligence per se. With such an array as this of the terrible cost of life and limb by failure to use appliances to avoid coupling and uncoupling cars by hand (in doing which the plaintiff was injured), the small expense—nay, actual economy—of adopting them, and the ample means of the defendant's resources, we cannot reverse our ruling in Greenlee's case, that it is negligence per se in any railroad company to cause one of its employees to risk his life or limb in making couplings which can be made automatically without risk.

This matter of requiring these great corporations to protect the traveling public, and their employees as well, by the adoption of all safety appliances which have come into general use, is so important that we have gone into the subject at this length. Ordinarily, however, by great syndicates out of the State in which they operate, and their management, at all events, removed from any suggestion to that sound public opinion which is so great a check upon the conduct of individuals, and of government itself, the sole protection left to the traveler and the employee alike is the application of that law which is administered impartially, and which can lay its hand fearlessly upon the most powerful combination, and protect with its care the humblest individual in the land. In the present case, the defendant has the less excuse because there was uncontradicted testimony, not only that automatic car couplers were in general use at the time of the injury (March, 1895), but that the skeleton drawheads, in attempting to make a coupling with which the plaintiff was injured, were defective in that they were of different heights from the ground, and evidence that the cars could not have been coupled with a stick, or in any other manner, except by hand. No error.

ROSS V. SUMNER.

Supreme Court of Nebraska.

February 9, 1899.

A FALSE REPRESENTATION BY THE VENDOR OF LAND LYING

IN ANOTHER STATE, AS TO ITS VALUE, CHARACTER AND LOCATION, IF RELIED ON BY THE VENDEE WHO HAD NO OTHER KNOWLEDGE, IS GROUND FOR RESCINDING THE CONTRACT.

This was a suit for the rescission of a contract for the exchange of lands. The parties made a verbal agreement to exchange lands and, in pursuance thereof, the plaintiff conveyed to Sumner, the defendant, his land, which was in Nebraska. Subsequently when Sumner tendered plaintiff a deed for his lands, which were in California, the plaintiff refused to take it, and brought this suit to have the contract rescinded and his own land reconveyed to him. There was a decree for plaintiff and defendant appealed.

The court says:
A careful perusal and scrutiny of the entire evidence leave no room to doubt that the trial court was justified in finding that, at least, more than one of the representations specified were made by Sumner, as an inducement to Ross to deed his land. The evidence, however, fails to show that all such representations and statements were false and untrue. It is established beyond question that Sumner's land did not lay together in a single body, but consisted of two separate tracts. These representations, which were shown to be false and untrue, were of a material character; and having been relied on by plaintiff, were sufficient cause for the rescission of the contract, and for the interposition of a court of equity.

While the court found the issues in favor of the plaintiff, the decree orders a reconveyance of the land to Julia E. Ross. The pleadings did not ask this. She was not before the court. Frank M. Ross was the owner of the property, and the decree should have directed a reconveyance of the land to him. The decree will be accordingly modified.

A big line of negligee shirts with prices that will make you a purchaser.
RUDOLPH & WALLACE,
333 Main street.

BRIEF ITEMS OF INTEREST.

Rev. Edward Mack, pastor of the First Presbyterian Church, will deliver the address before the Literary Societies of Hampden-Sidney College next Tuesday, at 12 o'clock noon.

The Phillips ferry still touches at Pinner's Point, and there seems to be just now a lull in the ferry strife.

The Atlantic Gun Club will meet this afternoon at Pinner's Point for a pigeon shoot. Mr. Henderson Travers, a crack shot from the Eastern Shore, is expected to participate.

Mr. E. G. H. Bloxson is very ill from being overheated at Ocean View yesterday. He is at the home of his daughter, Mrs. W. J. Strowland, 701 Church street extended, Huntersville.

Rev. Dr. W. J. Young delivered the commencement address before the students of the Franklin Institute yesterday.

It is thought that the Old Dominion Steamship Company's ship Jefferson will go into commission the last of this month.

Rev. Thos. Dixon, Jr., will deliver his lecture on "Backbone" at Y. M. C. A. Hall on June 10th, at 8:30 p. m.

Early whortleberries are on the market.

The soda fountains did a heavy business yesterday.

There appears to be nothing new in the plumbers' strike, and both the Journeymen and Masters appear to be resting on their oars. The journeymen are receiving substantial assistance from their national association.

The new and handsome clock on the corner of the Citizens' Bank building was started at 11:15 a. m. yesterday. It will prove a great convenience to people.

A wagon loaded with iron broke down at the east end of Main street yesterday morning, delaying traffic on the Brambleton cars some time.

Mr. L. T. Bick & Son have just completed a new balcony at the Academy of Music building. They also completed yesterday a new front for the store of L. P. Upton & Co., corner of Roanoke avenue and Elizabeth street.

Col. H. S. Haines, vice-president of the A. & D. Railway, and wife, accompanied by their daughter, Miss Marion, left last night for Washington, en route to their home at New York.

Mr. Fred L. Chase, of Cincinnati, Ohio, Southeastern Passenger Agent of the Chicago & Alton Railroad, is in the city.

Miss Wales, of New York, left last night for Alexandria, Va., to visit friends and relatives.

The new brick dwelling of Dr. McCormick, on York street, near Belmont, is up to the third floor joists. The building will have a fine light pressed brick front with cut stone trimmings. It will be completed in September.

Mrs. D. Friedman left on the Bay Line boat yesterday for a visit of ten days in Baltimore.

FOR RED ROUGH HANDS. FOR ITCHING PALMS. CUTICURA SOAP. DRY, and anoint freely with CUTICURA ointment, the great skin cure and purifier of emollients. Wear old gloves during the night. For sore hands, itching, burning pains and painful finger ends, this one night treatment is wonderful.

WOMEN Especially Mothers are most susceptible to appreciate the remarkable cleansing, purifying and softening properties of CUTICURA Soap, and to learn how to use it daily.

Sold throughout the world. PUTTER & CO., Proprietors, Boston. "How to Have Beautiful Hands." Free.

NEWS OF THE COURTS

Charged With Embezzling Letter.
Containing a Check.

The U. S. Court Grand Jury Makes
Several Additional Presentments
—Demurrer Overruled—Six Months
For Robbery—Police Court.

The trial of Alfred E. Owens for the embezzling of a letter containing a check was begun in the United States Court yesterday afternoon. Owens is a Matthews county man and is defended by Judge G. Taylor Garnett and Mr. Sears, of that county.

Sometime ago a letter for Mrs. Annie E. Owens was sent to New Point, in Matthews county. The letter had been misdirected and there was no claimant for it for several days, when Owens represented to the postmaster, it is alleged, that it belonged to one of his relatives. The letter was given to him and it was afterwards found that it contained a check for \$88 from the Battery Bank, at Asheville, N. C.

The check was never cashed, but it is alleged that Owens attempted to cash it. Owens, who is well known in Matthews county, claims that he thought the letter was for one of his relatives and that he took it out of the office and opened it on this supposition. The trial will be concluded to-day.

THE GRAND JURY'S WORK.
George R. Gornito, a white man about 50 years old, well known in Norfolk, was indicted by the United States grand jury yesterday afternoon on the charge of attempting to unlawfully extort money from Alexina James, who was indicted for perjury in an affidavit made to secure a pension as the widow of an ex-Union soldier.

Other indictments were as follows:
Chas. C. Connorton, assaulting a government officer.

Wm. J. Fitchett, cutting a cable and turning a boat adrift.

The charge of perjury against Jonathan Cuffee was nolle prosequed.

DEMURRER OVERRULED.
In the case against Alexina James, charged with perjury in a pension application, the defendant's demurrer was overruled. The defendant had been drawing a pension, which was discontinued when it was shown by evidence taken here that her husband had not been bound to support her had he lived.

Judge Waddell's ruling sustains this position, which has also been sustained by the Secretary of the Interior.

CORPORATION COURT.
In the Corporation Court yesterday W. J. Shepherd qualified as notary public.

Charles Britt, the negro who robbed William Skinner of 75 cents, was given six months in jail. Britt was sentenced to serve twelve months in jail by the lower court and appealed.

PROPERTY TRANSFERS.
In the Clerk's Office yesterday deeds making the following transfers were recorded:

J. R. Wilson, of Riverhead, N. Y., to Jacob Pfeiffer, lot with improvements fronting 21 feet 6 inches on the east side of Doyle street; \$450.

West End Land Company to J. J. Riley, three lots fronting 25 feet each on the north side of Ward avenue; \$1,350.

M. Keeling, attorney in fact, to J. P. Johnson, of Lewiston, N. C., lot at the corner of Mary's avenue and Mowbray Arch, Ribble Place; \$1,700.

Margaret S. Whitehurst, and John T. Whitehurst, of Baltimore, trustees, to Margaret S. Whitehurst, to Mrs. William M. George, lot with improvements fronting 22.6 feet on the southern side of Brambleton avenue; \$825.

The Gheut Company to Eliza A. Heyl, lot at the northwest corner of Westover and Colonial avenues, Ghent; \$1,900.

The Gheut Company to A. A. H. Boissevain, a lot of land fronting 10 feet on north side of Raleigh avenue, Ghent; \$6,120.

The Gheut Company to A. A. H. Boissevain a lot of land fronting 325 feet on north side of Redgate avenue, Ghent; \$21,060.

THE POLICE COURT.
The following cases were disposed of by Justice Tomlin yesterday as indicated:

Charley Lee, colored, throwing beer bottles at Wade White, colored; fined \$3.50.

George Williams, begging on the street; twenty-four hours on bread and water.

Delig Dickson, colored, maintaining a health nuisance; fined \$6.

John Raspberry, colored, wife-beating; fined \$3.

William Rodman, colored, insanity; held for a commission.

Major Griffin, colored, shooting; dismissed.

J. L. Dixon, a colored bicyclist, riding into George Ferebee, a colored boy; fined \$11.

All in sight of monument. "Newest Discovery" extracts teeth painlessly. N. Y. Dental Rooms, Ennes only, 324 Main street, corner Talbot.

MUSIC AT OCEAN VIEW.
UNDER DIRECTION OF PROF. KRUGER.

Commencing Saturday, June 10th, there will be music on the pavilion evenings from 8 to 10 p. m. Sunday sacred music from 8:30 p. m. to 9:30 p. m.

For the coming season trains will leave Norfolk for Ocean View every 30 minutes. In the afternoon on the hours and halves.

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BRAMBLETON WARD.

Mr. Frank H. Townsend is in Baltimore on business.

Mr. A. M. Cousins left last night for Roanoke, Va., on business.

Rev. L. R. Christie will go to Winston, N. C., Sunday to deliver a missionary address at the Baptist Church there, of which Rev. J. B. Chitty, a Norfolk boy, is pastor. The pulpit of Spurgeon Memorial Church will be supplied during his absence.

Mrs. L. D. Edmonds left yesterday for her former home, at Whaleyville, Va., where she will attend the marriage of her sister, Miss Simpson, on the 14th instant.

Rev. Thomas Dixon, Jr., will deliver his great lecture, "Backbone," for the benefit of Spurgeon Memorial Baptist Church at the Y. M. C. A. Hall Saturday night. Mr. Dixon is universally regarded as the most perfect master of dramatic oratory in this country, and those who attend will enjoy a feast of good things.

Mr. and Mrs. J. D. Seymour are quite sick at their residence, on Mason avenue.

Miss Florence Williams, of Elizabeth City, N. C., is the guest of Misses Sallie Harwell and Laura Barclay, No. 302 North Maitby avenue.

Owing to the absence from the city of Rev. R. H. Bennett no services were held at McKendree Methodist Church last night.

Anna Roberta, the infant daughter of Mr. and Mrs. W. H. Davis, died at the residence of her parents yesterday at 7:45 a. m. The funeral will take place from the house at 10 o'clock this morning.

Despite the extremely warm weather last night the devotional meeting of the Epworth League of Trinity M. E. Church was well attended. The services were conducted by Mr. C. H. Buckwalter. The topic discussed was "The Wheat and Tares."

The work of sewerage is progressing very satisfactorily. As fast as the pipes are laid the streets are placed back in their original condition, so that there can be no interruption to travel.

An ice cream social and lawn party will be given near Broad Creek toll-gate in East Brambleton to-night on a vacant lot between the Hawks' store and dwelling, C. C. Gunter. The proceeds to be devoted to the building fund of an undenominational church at that point. Committee of Arrangements: Mrs. M. A. Grimstead, chairman; Mrs. C. C. Gunter, Mrs. Lola Mulholland, Mrs. D. Lavender, Miss Blanche Grimstead, Mrs. Nettie Moore, Mrs. Minnie Plummer, Mr. J. T. Richardson and Mr. W. R. Hawkes.

ATLANTIC CITY WARD.

The Norfolk City Railway Company is raising its track on Front street and Colley avenue to conform to the grade of these thoroughfares.

The members of Central Avenue Baptist Church held a business meeting last night and adopted a constitution for the government of the church.

An interesting debate will take place to-night at 8 o'clock at the residence of Captain Matthews, on Avenue B. It will be under the auspices of the Eastern Workers of Central Avenue Baptist Church.

The joint service of the congregation and Epworth League of LeKies Memorial Methodist Church last night was well attended, and the exercises were of a thoroughly spiritual character.

The ladies of Central Avenue Baptist Church have decided to hold their lawn party to-night, on the corner of Colley and Avenue B.

The beautiful lawn of the Presbyterian Manse is being put in proper condition for holding the usual summer sociables of the Christian Endeavor Society of Colley Memorial Church.

HUNTERSVILLE.

Mr. Walter Hunter continues very ill at his home on Lee street.

The Epworth League and the ladies of Huntersville M. E. Church will give a lawn party to-night at the residence of Mrs. R. E. Lattimore, known as the Old Hunter property, on Amelia street. The proceeds will be for the benefit of the church.

Complaint is made of a nuisance caused by an undrained ditch back of Outten street. The residents in that locality desire very much that it be abated.

Mr. W. S. Murden has in course of erection a handsome dwelling on Goff, east of Church street, which will be occupied by him as a family residence when completed.

Willie, the infant child of Mrs. Walker, widow of the late Mr. W. H. Walker, died at the home of its mother, Avenue C, at 8 o'clock last night.

Shooting causes excitement.

The firing of a pistol in the saloon run by Ed. Miars caused considerable excitement about noon yesterday. The shooting is said to have grown out of a negro mute known as "Dummy," who is in the employ of Hannan & Kelley's livery stables, who, it is said, entered Miars' place and threw bricks at the proprietor after the latter had ordered the negro out. "Dummy" was not hurt, but the bullet fired by Miars came near hitting a young white man on the opposite side of the street. Miars was arrested and bailed by Justice Sterling in the sum of \$100 for his appearance in the Police Court this morning. Miars says he shot, not to hit the negro, but to scare him away.

The Power of the Press.

"The power of the press" is a common expression, but few really realize its actual power. Deep thinkers do not hesitate to assert that half the crime of our country may be traced to this source. But great as is the influence of the press, it cannot begin to equal the power of Hostetter's Stomach Bitters over disease. Most diseases originate in a weak stomach. The Bitters strengthens the stomach, purifies the blood and cures constipation. It will tone up the nervous system, stir up sluggish livers and stimulate inactive kidneys. As an appetizer it is unequalled. It will be found in every family medicine chest, and is sold by every druggist. It cures sick people and an occasional dose regulates the bowels and prevents well people from becoming sick. If you want to get well, and keep well, use Hostetter's Stomach Bitters.

A Candy Thief Caught.

Archie Pryer, colored, stole a bucket of candy from the Woodard & Goodridge Company's store, on Water street, yesterday and was chased by Mr. H. B. Goodridge to the New York, Philadelphia and Norfolk railroad property, where he was captured and landed at the station-house in the patrol wagon. Archie is an "old bird" and will renew old acquaintance with the Police Court this morning.

Sweet, Refreshing

sleep is given by Hood's Sarsaparilla which strengthens the nerves, tones the stomach and overcomes all dyspeptic symptoms. You should try it.

Hood's Pills are prompt and efficient, easy to take, easy to operate. 25 cents.

Horse Overcome by Heat.

A horse attached to one of the Robt. Portner Brewing Company's wagons was overcome by heat on Monument Square about 10 o'clock last night. Medical aid was summoned and numerous efforts made to raise the animal on its feet, but in vain. Straw was placed under it at 1:20 o'clock this morning as a protection from the Belgian blocks with which the square is paved.

CASTORIA.
Bears the Signature of *Chas. H. Fletcher*

The Crocker City Brewing Company writes the Manufacturers' Record that it will erect a brewery at East Liverpool, O. Contracts have not been let, and a complete outfit of brewing machinery will be needed.

THE SAKS STORES

The Biggest Sale of
Pants Ever Known!

We bought these late and saved enough so as to give you a sample of the enormous purchasing powers of "THE SAKS STORES."

They are values that should sell for \$4.50, \$5.00 and \$5.50, which we offer to you at

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THE MONTICELLO CORNER.

Tailor-Made Suits

Perfect in Finish,
Original in Style,
Staple Materials.

The cut prices of our Tailor-made Suits, as advertised last week, has given new impetus to this department, and a number of appreciative buyers have availed themselves of this rare opportunity to obtain a suit ready to wear at such a ridiculously low price.

THESE PRICES STILL PREVAIL:

Those at \$10.00 go at \$7.98
" " 12.00 " 8.50
" " 15.00 " 10.98
" " 18.50 " 13.50
" " 20.00 " 14.00
" " 25.00 " 18.00
" " 35.00 " 25.00
" " 50.00 " 35.00

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We can furnish you with a better and cheaper cream than it is possible to get elsewhere. Come and sample our cream and get prices and be convinced.

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SALESLADIES WANTED.

WATCH OUR "ADS."

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Special Cut Prices For Two Days Only,

Thursday, June 8th, and Friday, June 9th.

We'll be busy where others are dull, and these Cut Prices will do it. "Nuf ced."

5 3/4 C. a yard for handsome assorted

29c. For Ladies' Percale Waists, up-to-date styles, detached collars and well made. They are priced at 50c. elsewhere. Here, keep busy price 29c.

5 3/4 C. For six pretty Fancy Colored

79c. For Ladies' Full Cut White

39c. Ladies' Black Satine Under-

98c. For Ladies' Two-Piece Grass

22c. A pair for the Cool Breeze Sum-

5 3/4 C. Twilled Crash, extra wide, with

5 3/4 C. For two yards of good Bleached

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5 3/4 C. For two yards of good Bleached